

As a preliminary matter, it is noted that the Examiner has attached to the instant Official Action a copy of the completed form PTO-1449 submitted by Applicants with the Information Disclosure Statement dated February 20, 1997. Certain of the references cited therein are lined through by the Examiner. At page 4 of the Official Action, the Examiner states that "References lined through on PTO-1449 are not of record.". It is understood that the Examiner means by this that those references are not present in the file of the application.

This is not understood by the Applicant since it is believed that copies of these references were submitted with the Information Disclosure Statement as filed.

Be that as it may, however, Applicant is taking this opportunity to submit with the instant response, copies of these cited references for consideration by the Examiner.

The specification has been reviewed for errors and certain editorial corrections are effected. These corrections are purely editorial in nature and would not appear to require extensive discussion.

The claims of the application are amended in a manner to avoid certain objections raised by the Examiner in the recent Official Action and in a manner to most adequately define the subject matter of the present invention. Thus, claims 1 - 15

inclusive have been cancelled and replaced by newly formulated claims 16 to 30. A completely new set of claims is presented for the convenience of the Examiner.

Improper multiple dependency of claims has been avoided and thus the Examiner's objection in the first paragraph on page 2 of the Official Action is avoided.

Also, the phrase "such as" which was contained in original claim 3 is no longer employed in the revised claims.

The newly presented claims are drafted along the lines of the former claims with, however, certain changes in order to more specifically define the subject matter of the present invention.

The process of original claims 9 - 12 (now claims 24 - 27) has been more specifically defined in accordance with the disclosure of the specification.

Additionally, former claims 13 to 15 are replaced by newly formulated claims 28 to 30 which are drafted in acceptable method of use format.

Support for the subject matter of the claims as amended is readily apparent from the specification as filed and the patentability of the amended claims will be apparent from the remarks set forth herein.

Claims 1 to 3 stand rejected as lacking patentable under the provisions of 35 U.S.C. 103 over Luck et al. in view of Wallace et al.. This ground of rejection is deemed to be untenable and is thus respectfully traversed.

In accordance with the present invention, for the controlled release of an active substance to or via the skin by means of collagen preparations, a special mixture of acid-insoluble collagens or collagen fractions is used which have different molecular weight distributions which are obtained, in particular, by alkaline decomposition. Such mixture of fractions from acid-insoluble collagen of different molecular weight distribution better takes into account the different requirements of different active substances, active substance combinations, and release characteristics than has previously been the case.

The Luck et al. patent contains no information whatsoever directing one skilled in the art toward such mixtures of acid-insoluble collagens or collagen fractions that have different molecular weight distributions. The same argument applies to Wallace et al.. Here, the use of collagen or collagen fractions is described for the healing of bones

and/or healing bone fractures, using - as far as can be seen - enzymatic preparations of collagen-containing material. Nowhere, however, in this document can it be deduced that mixtures of acid-insoluble collagens of different molecular weight distribution are particularly useful materials, for whatever purpose.


Applicant thus respectfully submits that the patentability of the instantly claimed subject matter is beyond question. This is all the more since the great number of references cited in the international search report for Applicant's international application as well as the literature mentioned by Applicant in the introductory portion of the specification shows that considerable effort has been undertaken to develop useful products without anyone having thought of the concept of the present invention.

Applicant thus respectfully submits that each of the grounds of rejection set forth against the present application has been overcome and that the application is now in condition for allowance; such allowance is solicited.

Respectfully submitted,

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